

FIRST REGULAR SESSION

HOUSE BILL NO. 280

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BARNES (Sponsor), MIMS, LAFAVER, CORNEJO, ROORDA,
WEBBER, MONTECILLO AND HIGDON (Co-sponsors).

1015H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 339.100, 375.1312, 556.036, 556.037, 556.061, 558.018, 558.026, 559.115, 559.117, 566.020, 566.030, 566.040, 566.060, 566.070, 566.090, 566.093, 566.095, 566.100, 566.224, 566.226, 589.015, 590.700, and 632.480, RSMo, and to enact in lieu thereof thirty-one new sections relating to crime, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 339.100, 375.1312, 556.036, 556.037, 556.061, 558.018, 558.026, 559.115, 559.117, 566.020, 566.030, 566.040, 566.060, 566.070, 566.090, 566.093, 566.095, 566.100, 566.224, 566.226, 589.015, 590.700, and 632.480, RSMo, are repealed and thirty-one new sections enacted in lieu thereof, to be known as sections 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 339.100, 375.1312, 556.036, 556.037, 556.061, 558.018, 558.026, 559.115, 559.117, 566.020, 566.030, 566.031, 566.060, 566.061, 566.093, 566.095, 566.100, 566.101, 566.224, 566.226, 589.015, 590.700, and 632.480, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 receive instruction related to the specific contents of the policy of discipline and any
9 interpretations necessary to implement the provisions of the policy in the course of their duties,
10 including but not limited to approved methods of dealing with acts of school violence,
11 disciplining students with disabilities and instruction in the necessity and requirements for
12 confidentiality.

13 2. The policy shall require school administrators to report acts of school violence to all
14 teachers at the attendance center and, in addition, to other school district employees with a need
15 to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school
16 personnel who are directly responsible for the student's education or who otherwise interact with
17 the student on a professional basis while acting within the scope of their assigned duties. As
18 used in this section, the phrase "act of school violence" or "violent behavior" means the exertion
19 of physical force by a student with the intent to do serious physical injury as defined in
20 subdivision (6) of section 565.002 to another person while on school property, including a school
21 bus in service on behalf of the district, or while involved in school activities. The policy shall
22 at a minimum require school administrators to report, as soon as reasonably practical, to the
23 appropriate law enforcement agency any of the following crimes, or any act which if committed
24 by an adult would be one of the following crimes:

- 25 (1) First degree murder under section 565.020;
- 26 (2) Second degree murder under section 565.021;
- 27 (3) Kidnapping under section 565.110;
- 28 (4) First degree assault under section 565.050;
- 29 (5) [Forcible] Rape **in the first degree** under section 566.030;
- 30 (6) [Forcible] Sodomy **in the first degree** under section 566.060;
- 31 (7) Burglary in the first degree under section 569.160;
- 32 (8) Burglary in the second degree under section 569.170;
- 33 (9) Robbery in the first degree under section 569.020;
- 34 (10) Distribution of drugs under section 195.211;
- 35 (11) Distribution of drugs to a minor under section 195.212;
- 36 (12) Arson in the first degree under section 569.040;
- 37 (13) Voluntary manslaughter under section 565.023;
- 38 (14) Involuntary manslaughter under section 565.024;
- 39 (15) Second degree assault under section 565.060;
- 40 (16) [Sexual assault] **Rape in the second degree** under section [566.040] **566.031**;
- 41 (17) Felonious restraint under section 565.120;
- 42 (18) Property damage in the first degree under section 569.100;
- 43 (19) The possession of a weapon under chapter 571;

- 44 (20) Child molestation in the first degree pursuant to section 566.067;
45 (21) [Deviate sexual assault] **Sodomy in the second degree** pursuant to section
46 [566.070] **566.061**;
- 47 (22) Sexual misconduct involving a child pursuant to section 566.083;
48 (23) Sexual abuse **in the first degree** pursuant to section 566.100;
49 (24) Harassment under section 565.090; or
50 (25) Stalking under section 565.225; committed on school property, including but not
51 limited to actions on any school bus in service on behalf of the district or while involved in
52 school activities. The policy shall require that any portion of a student's individualized education
53 program that is related to demonstrated or potentially violent behavior shall be provided to any
54 teacher and other school district employees who are directly responsible for the student's
55 education or who otherwise interact with the student on an educational basis while acting within
56 the scope of their assigned duties. The policy shall also contain the consequences of failure to
57 obey standards of conduct set by the local board of education, and the importance of the
58 standards to the maintenance of an atmosphere where orderly learning is possible and
59 encouraged.
- 60 3. The policy shall provide that any student who is on suspension for any of the offenses
61 listed in subsection 2 of this section or any act of violence or drug-related activity defined by
62 school district policy as a serious violation of school discipline pursuant to subsection 9 of this
63 section shall have as a condition of his or her suspension the requirement that such student is not
64 allowed, while on such suspension, to be within one thousand feet of any school property in the
65 school district where such student attended school or any activity of that district, regardless of
66 whether or not the activity takes place on district property unless:
- 67 (1) Such student is under the direct supervision of the student's parent, legal guardian,
68 or custodian and the superintendent or the superintendent's designee has authorized the student
69 to be on school property;
- 70 (2) Such student is under the direct supervision of another adult designated by the
71 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
72 which suspended the student and the superintendent or the superintendent's designee has
73 authorized the student to be on school property;
- 74 (3) Such student is enrolled in and attending an alternative school that is located within
75 one thousand feet of a public school in the school district where such student attended school;
76 or
- 77 (4) Such student resides within one thousand feet of any public school in the school
78 district where such student attended school in which case such student may be on the property
79 of his or her residence without direct adult supervision.

80 4. Any student who violates the condition of suspension required pursuant to subsection
81 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of
82 sections 167.161, 167.164, and 167.171. In making this determination consideration shall be
83 given to whether the student poses a threat to the safety of any child or school employee and
84 whether such student's unsupervised presence within one thousand feet of the school is disruptive
85 to the educational process or undermines the effectiveness of the school's disciplinary policy.
86 Removal of any pupil who is a student with a disability is subject to state and federal procedural
87 rights. This section shall not limit a school district's ability to:

88 (1) Prohibit all students who are suspended from being on school property or attending
89 an activity while on suspension;

90 (2) Discipline students for off-campus conduct that negatively affects the educational
91 environment to the extent allowed by law.

92 5. The policy shall provide for a suspension for a period of not less than one year, or
93 expulsion, for a student who is determined to have brought a weapon to school, including but
94 not limited to the school playground or the school parking lot, brought a weapon on a school bus
95 or brought a weapon to a school activity whether on or off of the school property in violation of
96 district policy, except that:

97 (1) The superintendent or, in a school district with no high school, the principal of the
98 school which such child attends may modify such suspension on a case-by-case basis; and

99 (2) This section shall not prevent the school district from providing educational services
100 in an alternative setting to a student suspended under the provisions of this section.

101 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
102 under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a
103 concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
104 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
105 knife; except that this section shall not be construed to prohibit a school board from adopting a
106 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
107 educational purposes so long as the firearm is unloaded. The local board of education shall
108 define weapon in the discipline policy. Such definition shall include the weapons defined in this
109 subsection but may also include other weapons.

110 7. All school district personnel responsible for the care and supervision of students are
111 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
112 property of the school, on any school bus going to or returning from school, during
113 school-sponsored activities, or during intermission or recess periods.

114 8. Teachers and other authorized district personnel in public schools responsible for the
115 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable

care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct to the children's division under section 210.115, such person and the superintendent of the school district shall forward the allegation to the children's division within twenty-four hours of receiving the information. Reports made to the children's division under this subsection shall be investigated by the division in accordance with the provisions of sections 210.145 to 210.153

152 and shall not be investigated by the school district under subsections 12 to 20 of this section for
153 purposes of determining whether the allegations should or should not be substantiated. The
154 district may investigate the allegations for the purpose of making any decision regarding the
155 employment of the accused employee.

156 12. Upon receipt of any reports of child abuse by the children's division other than
157 reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165
158 which allegedly involve personnel of a school district, the children's division shall notify the
159 superintendent of schools of the district or, if the person named in the alleged incident is the
160 superintendent of schools, the president of the school board of the school district where the
161 alleged incident occurred.

162 13. If, after an initial investigation, the superintendent of schools or the president of the
163 school board finds that the report involves an alleged incident of child abuse other than the
164 administration of a spanking by certificated school personnel or the use of reasonable force to
165 protect persons or property when administered by school personnel pursuant to a written policy
166 of discipline or that the report was made for the sole purpose of harassing a public school
167 employee, the superintendent of schools or the president of the school board shall immediately
168 refer the matter back to the children's division and take no further action. In all matters referred
169 back to the children's division, the division shall treat the report in the same manner as other
170 reports of alleged child abuse received by the division.

171 14. If the report pertains to an alleged incident which arose out of or is related to a
172 spanking administered by certificated personnel or the use of reasonable force to protect persons
173 or property when administered by personnel of a school district pursuant to a written policy of
174 discipline or a report made for the sole purpose of harassing a public school employee, a
175 notification of the reported child abuse shall be sent by the superintendent of schools or the
176 president of the school board to the law enforcement in the county in which the alleged incident
177 occurred.

178 15. The report shall be jointly investigated by the law enforcement officer and the
179 superintendent of schools or, if the subject of the report is the superintendent of schools, by a law
180 enforcement officer and the president of the school board or such president's designee.

181 16. The investigation shall begin no later than forty-eight hours after notification from
182 the children's division is received, and shall consist of, but need not be limited to, interviewing
183 and recording statements of the child and the child's parents or guardian within two working days
184 after the start of the investigation, of the school district personnel allegedly involved in the
185 report, and of any witnesses to the alleged incident.

186 17. The law enforcement officer and the investigating school district personnel shall
187 issue separate reports of their findings and recommendations after the conclusion of the

188 investigation to the school board of the school district within seven days after receiving notice
189 from the children's division.

190 18. The reports shall contain a statement of conclusion as to whether the report of alleged
191 child abuse is substantiated or is unsubstantiated.

192 19. The school board shall consider the separate reports referred to in subsection 17 of
193 this section and shall issue its findings and conclusions and the action to be taken, if any, within
194 seven days after receiving the last of the two reports. The findings and conclusions shall be
195 made in substantially the following form:

196 (1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer
197 and the investigating school board personnel agree that there was not a preponderance of
198 evidence to substantiate that abuse occurred;

199 (2) The report of the alleged child abuse is substantiated. The law enforcement officer
200 and the investigating school district personnel agree that the preponderance of evidence is
201 sufficient to support a finding that the alleged incident of child abuse did occur;

202 (3) The issue involved in the alleged incident of child abuse is unresolved. The law
203 enforcement officer and the investigating school personnel are unable to agree on their findings
204 and conclusions on the alleged incident.

205 20. The findings and conclusions of the school board under subsection 19 of this section
206 shall be sent to the children's division. If the findings and conclusions of the school board are
207 that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated,
208 the case closed, and no record shall be entered in the children's division central registry. If the
209 findings and conclusions of the school board are that the report of the alleged child abuse is
210 substantiated, the children's division shall report the incident to the prosecuting attorney of the
211 appropriate county along with the findings and conclusions of the school district and shall
212 include the information in the division's central registry. If the findings and conclusions of the
213 school board are that the issue involved in the alleged incident of child abuse is unresolved, the
214 children's division shall report the incident to the prosecuting attorney of the appropriate county
215 along with the findings and conclusions of the school board, however, the incident and the names
216 of the parties allegedly involved shall not be entered into the central registry of the children's
217 division unless and until the alleged child abuse is substantiated by a court of competent
218 jurisdiction.

219 21. Any superintendent of schools, president of a school board or such person's designee
220 or law enforcement officer who knowingly falsifies any report of any matter pursuant to this
221 section or who knowingly withholds any information relative to any investigation or report
222 pursuant to this section is guilty of a class A misdemeanor.

223 22. In order to ensure the safety of all students, should a student be expelled for bringing
224 a weapon to school, violent behavior, or for an act of school violence, that student shall not, for
225 the purposes of the accreditation process of the Missouri school improvement plan, be
226 considered a dropout or be included in the calculation of that district's educational persistence
227 ratio.

 167.115. 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary,
2 the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall,
3 as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of
4 the school district in which the pupil is enrolled when a petition is filed pursuant to subsection
5 1 of section 211.031 alleging that the pupil has committed one of the following acts:

- 6 (1) First degree murder under section 565.020;
- 7 (2) Second degree murder under section 565.021;
- 8 (3) Kidnapping under section 565.110;
- 9 (4) First degree assault under section 565.050;
- 10 (5) [Forcible] Rape **in the first degree** under section 566.030;
- 11 (6) [Forcible] Sodomy **in the first degree** under section 566.060;
- 12 (7) Burglary in the first degree under section 569.160;
- 13 (8) Robbery in the first degree under section 569.020;
- 14 (9) Distribution of drugs under section 195.211;
- 15 (10) Distribution of drugs to a minor under section 195.212;
- 16 (11) Arson in the first degree under section 569.040;
- 17 (12) Voluntary manslaughter under section 565.023;
- 18 (13) Involuntary manslaughter under section 565.024;
- 19 (14) Second degree assault under section 565.060;
- 20 (15) [Sexual assault] **Rape in the second degree** under section [566.040] **566.031**;
- 21 (16) Felonious restraint under section 565.120;
- 22 (17) Property damage in the first degree under section 569.100;
- 23 (18) The possession of a weapon under chapter 571;
- 24 (19) Child molestation in the first degree pursuant to section 566.067;
- 25 (20) [Deviate sexual assault] **Sodomy in the second degree** pursuant to section
26 [566.070] **566.061**;
- 27 (21) Sexual misconduct involving a child pursuant to section 566.083; or
- 28 (22) Sexual abuse **in the first degree** pursuant to section 566.100.

29 2. The notification shall be made orally or in writing, in a timely manner, no later than
30 five days following the filing of the petition. If the report is made orally, written notice shall
31 follow in a timely manner. The notification shall include a complete description of the conduct

32 the pupil is alleged to have committed and the dates the conduct occurred but shall not include
33 the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting
34 attorney or their designee shall send a second notification to the superintendent providing the
35 disposition of the case, including a brief summary of the relevant finding of facts, no later than
36 five days following the disposition of the case.

37 3. The superintendent or the designee of the superintendent shall report such information
38 to teachers and other school district employees with a need to know while acting within the scope
39 of their assigned duties. Any information received by school district officials pursuant to this
40 section shall be received in confidence and used for the limited purpose of assuring that good
41 order and discipline is maintained in the school. This information shall not be used as the sole
42 basis for not providing educational services to a public school pupil.

43 4. The superintendent shall notify the appropriate division of the juvenile or family court
44 upon any pupil's suspension for more than ten days or expulsion of any pupil that the school
45 district is aware is under the jurisdiction of the court.

46 5. The superintendent or the superintendent's designee may be called to serve in a
47 consultant capacity at any dispositional proceedings pursuant to section 211.031 which may
48 involve reference to a pupil's academic treatment plan.

49 6. Upon the transfer of any pupil described in this section to any other school district in
50 this state, the superintendent or the superintendent's designee shall forward the written
51 notification given to the superintendent pursuant to subsection 2 of this section to the
52 superintendent of the new school district in which the pupil has enrolled. Such written
53 notification shall be required again in the event of any subsequent transfer by the pupil.

54 7. As used in this section, the terms "school" and "school district" shall include any
55 charter, private or parochial school or school district, and the term "superintendent" shall include
56 the principal or equivalent chief school officer in the cases of charter, private or parochial
57 schools.

58 8. The superintendent or the designee of the superintendent or other school employee
59 who, in good faith, reports information in accordance with the terms of this section and section
60 160.261 shall not be civilly liable for providing such information.

167.171. 1. The school board in any district, by general rule and for the causes provided
2 in section 167.161, may authorize the summary suspension of pupils by principals of schools for
3 a period not to exceed ten school days and by the superintendent of schools for a period not to
4 exceed one hundred and eighty school days. In case of a suspension by the superintendent for
5 more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial
6 care may appeal the decision of the superintendent to the board or to a committee of board
7 members appointed by the president of the board which shall have full authority to act in lieu of

8 the board. Any suspension by a principal shall be immediately reported to the superintendent
9 who may revoke the suspension at any time. In event of an appeal to the board, the
10 superintendent shall promptly transmit to it a full report in writing of the facts relating to the
11 suspension, the action taken by the superintendent and the reasons therefor and the board, upon
12 request, shall grant a hearing to the appealing party to be conducted as provided in section
13 167.161.

14 2. No pupil shall be suspended unless:

15 (1) The pupil shall be given oral or written notice of the charges against such pupil;

16 (2) If the pupil denies the charges, such pupil shall be given an oral or written
17 explanation of the facts which form the basis of the proposed suspension;

18 (3) The pupil shall be given an opportunity to present such pupil's version of the
19 incident; and

20 (4) In the event of a suspension for more than ten school days, where the pupil gives
21 notice that such pupil wishes to appeal the suspension to the board, the suspension shall be
22 stayed until the board renders its decision, unless in the judgment of the superintendent of
23 schools, or of the district superintendent, the pupil's presence poses a continuing danger to
24 persons or property or an ongoing threat of disrupting the academic process, in which case the
25 pupil may be immediately removed from school, and the notice and hearing shall follow as soon
26 as practicable.

27 3. No school board shall readmit or enroll a pupil properly suspended for more than ten
28 consecutive school days for an act of school violence as defined in subsection 2 of section
29 160.261 regardless of whether or not such act was committed at a public school or at a private
30 school in this state, provided that such act shall have resulted in the suspension or expulsion of
31 such pupil in the case of a private school, or otherwise permit such pupil to attend school without
32 first holding a conference to review the conduct that resulted in the expulsion or suspension and
33 any remedial actions needed to prevent any future occurrences of such or related conduct. The
34 conference shall include the appropriate school officials including any teacher employed in that
35 school or district directly involved with the conduct that resulted in the suspension or expulsion,
36 the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care,
37 custody or control of the pupil. The school board shall notify in writing the parents or guardians
38 and all other parties of the time, place, and agenda of any such conference. Failure of any party
39 to attend this conference shall not preclude holding the conference. Notwithstanding any
40 provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular
41 program of instruction if:

42 (1) Such pupil has been convicted of; or

43 (2) An indictment or information has been filed alleging that the pupil has committed
44 one of the acts enumerated in subdivision (4) of this subsection to which there has been no final
45 judgment; or

46 (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has
47 committed one of the acts enumerated in subdivision (4) of this subsection to which there has
48 been no final judgment; or

49 (4) The pupil has been adjudicated to have committed an act which if committed by an
50 adult would be one of the following:

51 (a) First degree murder under section 565.020;

52 (b) Second degree murder under section 565.021;

53 (c) First degree assault under section 565.050;

54 (d) [Forcible] Rape **in the first degree** under section 566.030;

55 (e) [Forcible] Sodomy **in the first degree** under section 566.060;

56 (f) Statutory rape under section 566.032;

57 (g) Statutory sodomy under section 566.062;

58 (h) Robbery in the first degree under section 569.020;

59 (i) Distribution of drugs to a minor under section 195.212;

60 (j) Arson in the first degree under section 569.040;

61 (k) Kidnapping, when classified as a class A felony under section 565.110. Nothing in
62 this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been
63 dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the
64 above acts. This subsection shall not apply to a student with a disability, as identified under state
65 eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the
66 student's disability. Nothing in this subsection shall be construed to prohibit a school district
67 which provides an alternative education program from enrolling a pupil in an alternative
68 education program if the district determines such enrollment is appropriate.

69 4. If a pupil is attempting to enroll in a school district during a suspension or expulsion
70 from another in-state or out-of-state school district including a private, charter or parochial
71 school or school district, a conference with the superintendent or the superintendent's designee
72 may be held at the request of the parent, court-appointed legal guardian, someone acting as a
73 parent as defined by rule in the case of a special education student, or the pupil to consider if the
74 conduct of the pupil would have resulted in a suspension or expulsion in the district in which the
75 pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee
76 that such conduct would have resulted in a suspension or expulsion in the district in which the
77 pupil is enrolling or attempting to enroll, the school district may make such suspension or
78 expulsion from another school or district effective in the district in which the pupil is enrolling

79 or attempting to enroll. Upon a determination by the superintendent or the superintendent's
80 designee that such conduct would not have resulted in a suspension or expulsion in the district
81 in which the student is enrolling or attempting to enroll, the school district shall not make such
82 suspension or expulsion effective in its district in which the student is enrolling or attempting
83 to enroll.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or
2 may, upon hearing, discipline the holder of a certificate of license to teach for the following
3 causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been found guilty
5 of a felony or crime involving moral turpitude under the laws of this state, any other state, of the
6 United States, or any other country, whether or not sentence is imposed;

7 (2) The certification was obtained through use of fraud, deception, misrepresentation or
8 bribery;

9 (3) There is evidence of incompetence, immorality, or neglect of duty by the certificate
10 holder;

11 (4) A certificate holder has been subject to disciplinary action relating to certification
12 issued by another state, territory, federal agency, or country upon grounds for which discipline
13 is authorized in this section; or

14 (5) If charges are filed by the local board of education, based upon the annulling of a
15 written contract with the local board of education, for reasons other than election to the general
16 assembly, without the consent of the majority of the members of the board that is a party to the
17 contract.

18 2. A public school district may file charges seeking the discipline of a holder of a
19 certificate of license to teach based upon any cause or combination of causes outlined in
20 subsection 1 of this section, including annulment of a written contract. Charges shall be in
21 writing, specify the basis for the charges, and be signed by the chief administrative officer of the
22 district, or by the president of the board of education as authorized by a majority of the board of
23 education. The board of education may also petition the office of the attorney general to file
24 charges on behalf of the school district for any cause other than annulment of contract, with
25 acceptance of the petition at the discretion of the attorney general.

26 3. The department of elementary and secondary education may file charges seeking the
27 discipline of a holder of a certificate of license to teach based upon any cause or combination of
28 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall
29 be in writing, specify the basis for the charges, and be signed by legal counsel representing the
30 department of elementary and secondary education.

31 4. If the underlying conduct or actions which are the basis for charges filed pursuant to
32 this section are also the subject of a pending criminal charge against the person holding such
33 certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel
34 under the fifth amendment of the Constitution of the United States. Based upon such a request,
35 no hearing shall be held until after a trial has been completed on this criminal charge.

36 5. The certificate holder shall be given not less than thirty days' notice of any hearing
37 held pursuant to this section.

38 6. Other provisions of this section notwithstanding, the certificate of license to teach
39 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate
40 holder or applicant has pleaded guilty to or been found guilty of any of the following offenses
41 established pursuant to Missouri law or offenses of a similar nature established under the laws
42 of any other state or of the United States, or any other country, whether or not the sentence is
43 imposed:

44 (1) Any dangerous felony as defined in section 556.061, or murder in the first degree
45 under section 565.020;

46 (2) Any of the following sexual offenses: rape **in the first degree** under section
47 566.030; statutory rape in the first degree under section 566.032; statutory rape in the second
48 degree under section 566.034; [sexual assault] **rape in the second degree** under section
49 [566.040] **566.031**; [forcible] sodomy **in the first degree** under section 566.060; statutory
50 sodomy in the first degree under section 566.062; statutory sodomy in the second degree under
51 section 566.064; child molestation in the first degree under section 566.067; child molestation
52 in the second degree under section 566.068; [deviate sexual assault] **sodomy in the second**
53 **degree** under section [566.070] **566.061**; sexual misconduct involving a child under section
54 566.083; sexual contact with a student while on public school property under section 566.086;
55 [sexual misconduct in the first degree under section 566.090;] sexual misconduct in the [second]
56 **first degree** under section 566.093; sexual misconduct in the [third] **second degree** under section
57 566.095; sexual abuse **in the first degree** under section 566.100; **sexual abuse in the second**
58 **degree under section 566.101**; enticement of a child under section 566.151; or attempting to
59 entice a child;

60 (3) Any of the following offenses against the family and related offenses: incest under
61 section 568.020; abandonment of child in the first degree under section 568.030; abandonment
62 of child in the second degree under section 568.032; endangering the welfare of a child in the
63 first degree under section 568.045; abuse of a child under section 568.060; child used in a sexual
64 performance under section 568.080; promoting sexual performance by a child under section
65 568.090; or trafficking in children under section 568.175; and

66 (4) Any of the following offenses involving child pornography and related offenses:
67 promoting obscenity in the first degree under section 573.020; promoting obscenity in the second
68 degree when the penalty is enhanced to a class D felony under section 573.030; promoting child
69 pornography in the first degree under section 573.025; promoting child pornography in the
70 second degree under section 573.035; possession of child pornography under section 573.037;
71 furnishing pornographic materials to minors under section 573.040; or coercing acceptance of
72 obscene material under section 573.065.

73 7. When a certificate holder pleads guilty or is found guilty of any offense that would
74 authorize the state board of education to seek discipline against that holder's certificate of license
75 to teach, the local board of education or the department of elementary and secondary education
76 shall immediately provide written notice to the state board of education and the attorney general
77 regarding the plea of guilty or finding of guilty.

78 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this
79 section may appeal such revocation to the state board of education. Notice of this appeal must
80 be received by the commissioner of education within ninety days of notice of revocation pursuant
81 to this subsection. Failure of the certificate holder to notify the commissioner of the intent to
82 appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent
83 to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner
84 of education, with the final decision made by the state board of education, based upon the record
85 of that hearing. The certificate holder shall be given not less than thirty days' notice of the
86 hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

87 9. In the case of any certificate holder who has surrendered or failed to renew his or her
88 certificate of license to teach, the state board of education may refuse to issue or renew, or may
89 suspend or revoke, such certificate for any of the reasons contained in this section.

90 10. In those cases where the charges filed pursuant to this section are based upon an
91 allegation of misconduct involving a minor child, the hearing officer may accept into the record
92 the sworn testimony of the minor child relating to the misconduct received in any court or
93 administrative hearing.

94 11. Hearings, appeals or other matters involving certificate holders, licensees or
95 applicants pursuant to this section may be informally resolved by consent agreement or agreed
96 settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated
97 by the state board of education.

98 12. The final decision of the state board of education is subject to judicial review
99 pursuant to sections 536.100 to 536.140.

100 13. A certificate of license to teach to an individual who has been convicted of a felony
101 or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only

102 upon motion of the state board of education adopted by a unanimous affirmative vote of those
103 members present and voting.

188.023. Any licensed health care professional who delivers a baby or performs an
2 abortion, who has prima facie evidence that a patient has been the victim of statutory rape in the
3 first degree or statutory rape in the second degree, or if the patient is under the age of eighteen,
4 that he or she has been a victim of sexual abuse, including [forcible rape, sexual assault] **rape**
5 **in the first or second degree**, or incest, shall be required to report such offenses in the same
6 manner as provided for by section 210.115.

211.071. 1. If a petition alleges that a child between the ages of twelve and seventeen
2 has committed an offense which would be considered a felony if committed by an adult, the court
3 may, upon its own motion or upon motion by the juvenile officer, the child or the child's
4 custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be
5 transferred to the court of general jurisdiction and prosecuted under the general law; except that
6 if a petition alleges that any child has committed an offense which would be considered first
7 degree murder under section 565.020, second degree murder under section 565.021, first degree
8 assault under section 565.050, [forcible] **rape in the first degree** under section 566.030,
9 [forcible] **sodomy in the first degree** under section 566.060, first degree robbery under section
10 569.020, or distribution of drugs under section 195.211, or has committed two or more prior
11 unrelated offenses which would be felonies if committed by an adult, the court shall order a
12 hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general
13 jurisdiction for prosecution under the general law.

14 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly
15 committed by any person between seventeen and twenty-one years of age over whom the juvenile
16 court has retained continuing jurisdiction shall automatically terminate and that offense shall be
17 dealt with in the court of general jurisdiction as provided in section 211.041.

18 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any
19 action or proceeding which occurs based upon the misrepresentation. Any evidence obtained
20 during the period of time in which a child misrepresents his or her age may be used against the
21 child and will be subject only to rules of evidence applicable in adult proceedings.

22 4. Written notification of a transfer hearing shall be given to the juvenile and his or her
23 custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the
24 hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the
25 hearing is to determine whether the child is a proper subject to be dealt with under the provisions
26 of this chapter, and that if the court finds that the child is not a proper subject to be dealt with
27 under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the
28 child under the general law.

29 5. The juvenile officer may consult with the office of prosecuting attorney concerning
30 any offense for which the child could be certified as an adult under this section. The prosecuting
31 or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile
32 officer, statements of witnesses and all other records or reports relating to the offense alleged to
33 have been committed by the child. The prosecuting or circuit attorney shall have access to the
34 disposition records of the child when the child has been adjudicated pursuant to subdivision (3)
35 of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information
36 regarding the child and the offense until the juvenile court at a judicial hearing has determined
37 that the child is not a proper subject to be dealt with under the provisions of this chapter.

38 6. A written report shall be prepared in accordance with this chapter developing fully all
39 available information relevant to the criteria which shall be considered by the court in
40 determining whether the child is a proper subject to be dealt with under the provisions of this
41 chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice
42 system. These criteria shall include but not be limited to:

43 (1) The seriousness of the offense alleged and whether the protection of the community
44 requires transfer to the court of general jurisdiction;

45 (2) Whether the offense alleged involved viciousness, force and violence;

46 (3) Whether the offense alleged was against persons or property with greater weight
47 being given to the offense against persons, especially if personal injury resulted;

48 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which
49 indicates that the child may be beyond rehabilitation under the juvenile code;

50 (5) The record and history of the child, including experience with the juvenile justice
51 system, other courts, supervision, commitments to juvenile institutions and other placements;

52 (6) The sophistication and maturity of the child as determined by consideration of his
53 home and environmental situation, emotional condition and pattern of living;

54 (7) The age of the child;

55 (8) The program and facilities available to the juvenile court in considering disposition;

56 (9) Whether or not the child can benefit from the treatment or rehabilitative programs
57 available to the juvenile court; and

58 (10) Racial disparity in certification.

59 7. If the court dismisses the petition to permit the child to be prosecuted under the
60 general law, the court shall enter a dismissal order containing:

61 (1) Findings showing that the court had jurisdiction of the cause and of the parties;

62 (2) Findings showing that the child was represented by counsel;

63 (3) Findings showing that the hearing was held in the presence of the child and his
64 counsel; and

65 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.

66 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting
67 attorney.

68 9. When a petition has been dismissed thereby permitting a child to be prosecuted under
69 the general law, the jurisdiction of the juvenile court over that child is forever terminated, except
70 as provided in subsection 10 of this section, for an act that would be a violation of a state law or
71 municipal ordinance.

72 10. If a petition has been dismissed thereby permitting a child to be prosecuted under the
73 general law and the child is found not guilty by a court of general jurisdiction, the juvenile court
74 shall have jurisdiction over any later offense committed by that child which would be considered
75 a misdemeanor or felony if committed by an adult, subject to the certification provisions of this
76 section.

77 11. If the court does not dismiss the petition to permit the child to be prosecuted under
78 the general law, it shall set a date for the hearing upon the petition as provided in section
79 211.171.

211.447. 1. Any information that could justify the filing of a petition to terminate
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the
6 informant may bring the matter directly to the attention of the judge of the juvenile court by
7 presenting the information in writing, and if it appears to the judge that the information could
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,
9 including making a further preliminary inquiry or filing a petition.

10 2. Except as provided for in subsection 4 of this section, a petition to terminate the
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,
12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek
13 to be joined as a party to the petition, when:

14 (1) Information available to the juvenile officer or the division establishes that the child
15 has been in foster care for at least fifteen of the most recent twenty-two months; or

16 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
18 of filing of the petition. The court may find that an infant has been abandoned if:

19 (a) The parent has left the child under circumstances that the identity of the child was
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come
21 forward to claim the child; or

22 (b) The parent has, without good cause, left the child without any provision for parental
23 support and without making arrangements to visit or communicate with the child, although able
24 to do so; or

25 (3) A court of competent jurisdiction has determined that the parent has:

26 (a) Committed murder of another child of the parent; or

27 (b) Committed voluntary manslaughter of another child of the parent; or

28 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
29 voluntary manslaughter; or

30 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
31 another child of the parent.

32 3. A termination of parental rights petition shall be filed by the juvenile officer or the
33 division, or if such a petition has been filed by another party, the juvenile officer or the division
34 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
35 required in subsection 2 of this section, except as provided in subsection 4 of this section.
36 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate
37 a petition for termination of parental rights which is filed outside of sixty days.

38 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this
39 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
40 the parental rights of the child's parent or parents if:

41 (1) The child is being cared for by a relative; or

42 (2) There exists a compelling reason for determining that filing such a petition would
43 not be in the best interest of the child, as documented in the permanency plan which shall be
44 made available for court review; or

45 (3) The family of the child has not been provided such services as provided for in section
46 211.183.

47 5. The juvenile officer or the division may file a petition to terminate the parental rights
48 of the child's parent when it appears that one or more of the following grounds for termination
49 exist:

50 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
51 child over one year of age at the time of filing of the petition. The court shall find that the child
52 has been abandoned if, for a period of six months or longer:

53 (a) The parent has left the child under such circumstances that the identity of the child
54 was unknown and could not be ascertained, despite diligent searching, and the parent has not
55 come forward to claim the child; or

56 (b) The parent has, without good cause, left the child without any provision for parental
57 support and without making arrangements to visit or communicate with the child, although able
58 to do so;

59 (2) The child has been abused or neglected. In determining whether to terminate parental
60 rights pursuant to this subdivision, the court shall consider and make findings on the following
61 conditions or acts of the parent:

62 (a) A mental condition which is shown by competent evidence either to be permanent
63 or such that there is no reasonable likelihood that the condition can be reversed and which
64 renders the parent unable to knowingly provide the child the necessary care, custody and control;

65 (b) Chemical dependency which prevents the parent from consistently providing the
66 necessary care, custody and control of the child and which cannot be treated so as to enable the
67 parent to consistently provide such care, custody and control;

68 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
69 or any child in the family by the parent, including an act of incest, or by another under
70 circumstances that indicate that the parent knew or should have known that such acts were being
71 committed toward the child or any child in the family; or

72 (d) Repeated or continuous failure by the parent, although physically or financially able,
73 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
74 care and control necessary for the child's physical, mental, or emotional health and development.
75 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability
76 or disease;

77 (3) The child has been under the jurisdiction of the juvenile court for a period of one
78 year, and the court finds that the conditions which led to the assumption of jurisdiction still
79 persist, or conditions of a potentially harmful nature continue to exist, that there is little
80 likelihood that those conditions will be remedied at an early date so that the child can be returned
81 to the parent in the near future, or the continuation of the parent-child relationship greatly
82 diminishes the child's prospects for early integration into a stable and permanent home. In
83 determining whether to terminate parental rights under this subdivision, the court shall consider
84 and make findings on the following:

85 (a) The terms of a social service plan entered into by the parent and the division and the
86 extent to which the parties have made progress in complying with those terms;

87 (b) The success or failure of the efforts of the juvenile officer, the division or other
88 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to
89 provide a proper home for the child;

90 (c) A mental condition which is shown by competent evidence either to be permanent
91 or such that there is no reasonable likelihood that the condition can be reversed and which
92 renders the parent unable to knowingly provide the child the necessary care, custody and control;

93 (d) Chemical dependency which prevents the parent from consistently providing the
94 necessary care, custody and control over the child and which cannot be treated so as to enable
95 the parent to consistently provide such care, custody and control; or

96 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566
97 when the child or any child in the family was a victim, or a violation of section 568.020 when
98 the child or any child in the family was a victim. As used in this subdivision, a "child" means
99 any person who was under eighteen years of age at the time of the crime and who resided with
100 such parent or was related within the third degree of consanguinity or affinity to such parent; or

101 (5) The child was conceived and born as a result of an act of [forcible] rape **in the first**
102 **degree**. When the biological father has pled guilty to, or is convicted of, the [forcible] rape **in**
103 **the first degree** of the birth mother, such a plea or conviction shall be conclusive evidence
104 supporting the termination of the biological father's parental rights; or

105 (6) The parent is unfit to be a party to the parent and child relationship because of a
106 consistent pattern of committing a specific abuse, including but not limited to abuses as defined
107 in section 455.010, child abuse or drug abuse before the child or of specific conditions directly
108 relating to the parent and child relationship either of which are determined by the court to be of
109 a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care
110 appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed
111 that a parent is unfit to be a party to the parent-child relationship upon a showing that within a
112 three-year period immediately prior to the termination adjudication, the parent's parental rights
113 to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this
114 section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other
115 states.

116 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed
117 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court
118 finds that the termination is in the best interest of the child and when it appears by clear, cogent
119 and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of
120 this section.

121 7. When considering whether to terminate the parent-child relationship pursuant to
122 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section,
123 the court shall evaluate and make findings on the following factors, when appropriate and
124 applicable to the case:

125 (1) The emotional ties to the birth parent;

126 (2) The extent to which the parent has maintained regular visitation or other contact with
127 the child;

128 (3) The extent of payment by the parent for the cost of care and maintenance of the child
129 when financially able to do so including the time that the child is in the custody of the division
130 or other child-placing agency;

131 (4) Whether additional services would be likely to bring about lasting parental
132 adjustment enabling a return of the child to the parent within an ascertainable period of time;

133 (5) The parent's disinterest in or lack of commitment to the child;

134 (6) The conviction of the parent of a felony offense that the court finds is of such a
135 nature that the child will be deprived of a stable home for a period of years; provided, however,
136 that incarceration in and of itself shall not be grounds for termination of parental rights;

137 (7) Deliberate acts of the parent or acts of another of which the parent knew or should
138 have known that subjects the child to a substantial risk of physical or mental harm.

139 8. The court may attach little or no weight to infrequent visitations, communications, or
140 contributions. It is irrelevant in a termination proceeding that the maintenance of the
141 parent-child relationship may serve as an inducement for the parent's rehabilitation.

142 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the
143 issues raised in a petition for adoption containing a prayer for termination of parental rights filed
144 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

145 10. The disability or disease of a parent shall not constitute a basis for a determination
146 that a child is a child in need of care, for the removal of custody of a child from the parent, or for
147 the termination of parental rights without a specific showing that there is a causal relation
148 between the disability or disease and harm to the child.

217.010. As used in this chapter and chapter 558, unless the context clearly indicates
2 otherwise, the following terms shall mean:

3 (1) "Administrative segregation unit", a cell for the segregation of offenders from the
4 general population of a facility for relatively extensive periods of time;

5 (2) "Board", the board of probation and parole;

6 (3) "Chief administrative officer", the institutional head of any correctional facility or
7 his designee;

8 (4) "Correctional center", any premises or institution where incarceration, evaluation,
9 care, treatment, or rehabilitation is provided to persons who are under the department's authority;

10 (5) "Department", the department of corrections of the state of Missouri;

11 (6) "Director", the director of the department of corrections or his designee;

12 (7) "Disciplinary segregation", a cell for the segregation of offenders from the general
13 population of a correctional center because the offender has been found to have committed a

14 violation of a division or facility rule and other available means are inadequate to regulate the
15 offender's behavior;

16 (8) "Division", a statutorily created agency within the department or an agency created
17 by the departmental organizational plan;

18 (9) "Division director", the director of a division of the department or his designee;

19 (10) "Local volunteer community board", a board of qualified local community
20 volunteers selected by the court for the purpose of working in partnership with the court and the
21 department of corrections in a reparative probation program;

22 (11) "Nonviolent offender", any offender who is convicted of a crime other than murder
23 in the first or second degree, involuntary manslaughter, kidnapping, [forcible] rape **in the first**
24 **degree**, [forcible] sodomy **in the first degree**, robbery in the first degree or assault in the first
25 degree;

26 (12) "Offender", a person under supervision or an inmate in the custody of the
27 department;

28 (13) "Probation", a procedure under which a defendant found guilty of a crime upon
29 verdict or plea is released by the court without imprisonment, subject to conditions imposed by
30 the court and subject to the supervision of the board;

31 (14) "Volunteer", any person who, of his own free will, performs any assigned duties for
32 the department or its divisions with no monetary or material compensation.

339.100. 1. The commission may, upon its own motion, and shall upon receipt of a
2 written complaint filed by any person, investigate any real estate-related activity of a licensee
3 licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or
4 entity acting as or representing themselves as a real estate licensee. In conducting such
5 investigation, if the questioned activity or written complaint involves an affiliated licensee, the
6 commission may forward a copy of the information received to the affiliated licensee's
7 designated broker. The commission shall have the power to hold an investigatory hearing to
8 determine whether there is a probability of a violation of sections 339.010 to 339.180 and
9 sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to
10 compel the production of records and papers bearing on the complaint. The commission shall
11 have the power to issue a subpoena and to compel any person in this state to come before the
12 commission to offer testimony or any material specified in the subpoena. Subpoenas and
13 subpoenas duces tecum issued pursuant to this section shall be served in the same manner as
14 subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that
15 allowed in the circuit court in civil cases.

16 2. The commission may cause a complaint to be filed with the administrative hearing
17 commission as provided by the provisions of chapter 621 against any person or entity licensed

18 under this chapter or any licensee who has failed to renew or has surrendered his or her
19 individual or entity license for any one or any combination of the following acts:

20 (1) Failure to maintain and deposit in a special account, separate and apart from his or
21 her personal or other business accounts, all moneys belonging to others entrusted to him or her
22 while acting as a real estate broker or as the temporary custodian of the funds of others, until the
23 transaction involved is consummated or terminated, unless all parties having an interest in the
24 funds have agreed otherwise in writing;

25 (2) Making substantial misrepresentations or false promises or suppression, concealment
26 or omission of material facts in the conduct of his or her business or pursuing a flagrant and
27 continued course of misrepresentation through agents, salespersons, advertising or otherwise in
28 any transaction;

29 (3) Failing within a reasonable time to account for or to remit any moneys, valuable
30 documents or other property, coming into his or her possession, which belongs to others;

31 (4) Representing to any lender, guaranteeing agency, or any other interested party, either
32 verbally or through the preparation of false documents, an amount in excess of the true and
33 actual sale price of the real estate or terms differing from those actually agreed upon;

34 (5) Failure to timely deliver a duplicate original of any and all instruments to any party
35 or parties executing the same where the instruments have been prepared by the licensee or under
36 his or her supervision or are within his or her control, including, but not limited to, the
37 instruments relating to the employment of the licensee or to any matter pertaining to the
38 consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property,
39 or any type of real estate transaction in which he or she may participate as a licensee;

40 (6) Acting for more than one party in a transaction without the knowledge of all parties
41 for whom he or she acts, or accepting a commission or valuable consideration for services from
42 more than one party in a real estate transaction without the knowledge of all parties to the
43 transaction;

44 (7) Paying a commission or valuable consideration to any person for acts or services
45 performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

46 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future
47 profits which may result from the resale of real property;

48 (9) Having been finally adjudicated and been found guilty of the violation of any state
49 or federal statute which governs the sale or rental of real property or the conduct of the real estate
50 business as defined in subsection 1 of section 339.010;

51 (10) Obtaining a certificate or registration of authority, permit or license for himself or
52 herself or anyone else by false or fraudulent representation, fraud or deceit;

- 53 (11) Representing a real estate broker other than the broker with whom associated
54 without the express written consent of the broker with whom associated;
- 55 (12) Accepting a commission or valuable consideration for the performance of any of
56 the acts referred to in section 339.010 from any person except the broker with whom associated
57 at the time the commission or valuable consideration was earned;
- 58 (13) Using prizes, money, gifts or other valuable consideration as inducement to secure
59 customers or clients to purchase, lease, sell or list property when the awarding of such prizes,
60 money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or
61 listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting
62 lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective
63 purchaser of real property;
- 64 (14) Placing a sign on or advertising any property offering it for sale or rent without the
65 written consent of the owner or his or her duly authorized agent;
- 66 (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling
67 any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to
68 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections
69 339.710 to 339.860;
- 70 (16) Committing any act which would otherwise be grounds for the commission to
71 refuse to issue a license under section 339.040;
- 72 (17) Failure to timely inform seller of all written offers unless otherwise instructed in
73 writing by the seller;
- 74 (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo
75 contendere, in a criminal prosecution under the laws of this state or any other state or of the
76 United States, for any offense reasonably related to the qualifications, functions or duties of any
77 profession licensed or regulated under this chapter, for any offense an essential element of which
78 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether
79 or not sentence is imposed;
- 80 (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business
81 dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;
- 82 (20) Disciplinary action against the holder of a license or other right to practice any
83 profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted
84 by another state, territory, federal agency, or country upon grounds for which revocation,
85 suspension, or probation is authorized in this state;
- 86 (21) Been found by a court of competent jurisdiction of having used any controlled
87 substance, as defined in chapter 195, to the extent that such use impairs a person's ability to

88 perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and
89 sections 339.710 to 339.860;

90 (22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

91 (23) Assisting or enabling any person to practice or offer to practice any profession
92 licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who
93 is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections
94 339.710 to 339.860;

95 (24) Use of any advertisement or solicitation which is knowingly false, misleading or
96 deceptive to the general public or persons to whom the advertisement or solicitation is primarily
97 directed;

98 (25) Making any material misstatement, misrepresentation, or omission with regard to
99 any application for licensure or license renewal. As used in this section, "material" means
100 important information about which the commission should be informed and which may influence
101 a licensing decision;

102 (26) Engaging in, committing, or assisting any person in engaging in or committing
103 mortgage fraud, as defined in section 443.930.

104 3. After the filing of such complaint, the proceedings will be conducted in accordance
105 with the provisions of law relating to the administrative hearing commission. A finding of the
106 administrative hearing commissioner that the licensee has performed or attempted to perform one
107 or more of the foregoing acts shall be grounds for the suspension or revocation of his license by
108 the commission, or the placing of the licensee on probation on such terms and conditions as the
109 real estate commission shall deem appropriate, or the imposition of a civil penalty by the
110 commission not to exceed two thousand five hundred dollars for each offense. Each day of a
111 continued violation shall constitute a separate offense.

112 4. The commission may prepare a digest of the decisions of the administrative hearing
113 commission which concern complaints against licensed brokers or salespersons and cause such
114 digests to be mailed to all licensees periodically. Such digests may also contain reports as to new
115 or changed rules adopted by the commission and other information of significance to licensees.

116 5. Notwithstanding other provisions of this section, a broker or salesperson's license shall
117 be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has
118 pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the
119 following offenses or offenses of a similar nature established under the laws of this, any other
120 state, the United States, or any other country, notwithstanding whether sentence is imposed:

121 (1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

122 (2) Any of the following sexual offenses: rape **in the first degree**, statutory rape in the
123 first degree, statutory rape in the second degree, [sexual assault, forcible] **rape in the second**

124 **degree, sodomy in the first degree**, statutory sodomy in the first degree, statutory sodomy in the
125 second degree, child molestation in the first degree, child molestation in the second degree,
126 [deviate sexual assault] **sodomy in the second degree**, sexual misconduct involving a child,
127 [sexual misconduct in the first degree,] sexual abuse **in the first or second degree**, enticement
128 of a child, or attempting to entice a child;

129 (3) Any of the following offenses against the family and related offenses: incest,
130 abandonment of a child in the first degree, abandonment of a child in the second degree,
131 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual
132 performance, promoting sexual performance by a child, or trafficking in children;

133 (4) Any of the following offenses involving child pornography and related offenses:
134 promoting obscenity in the first degree, promoting obscenity in the second degree when the
135 penalty is enhanced to a class D felony, promoting child pornography in the first degree,
136 promoting child pornography in the second degree, possession of child pornography in the first
137 degree, possession of child pornography in the second degree, furnishing child pornography to
138 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene
139 material; and

140 (5) Mortgage fraud as defined in section 570.310.

141 6. A person whose license was revoked under subsection 5 of this section may appeal
142 such revocation to the administrative hearing commission. Notice of such appeal must be
143 received by the administrative hearing commission within ninety days of mailing, by certified
144 mail, the notice of revocation. Failure of a person whose license was revoked to notify the
145 administrative hearing commission of his or her intent to appeal waives all rights to appeal the
146 revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the
147 administrative hearing commission.

375.1312. 1. As used in this section, the following terms mean:

2 (1) "Domestic violence"[, the occurrence of stalking or one or more of the following acts
3 between family or household members:

4 (a) Attempting to cause or intentionally or knowingly causing bodily injury or physical
5 harm;

6 (b) Knowingly engaging in a course of conduct or repeatedly committing acts toward
7 another person under circumstances that place the person in reasonable fear of bodily injury or
8 physical harm; or

9 (c) Knowingly committing forcible rape, sexual assault or forcible sodomy, as defined
10 in chapter 566;

11 (2) "Family or household member", spouses, former spouses, adults related by blood or
12 marriage, adults who are presently residing together or have resided together in the past and

13 adults who have a child in common regardless of whether they have been married or have resided
14 together at any time] **and "family" or "household member", as such terms are defined in**
15 **section 455.010;**

16 [(3)] (2) "Innocent coinsured", an insured who did not cooperate in or contribute to the
17 creation of a property loss and the loss arose out of a pattern of domestic violence;

18 [(4)] (3) "Sole", a single act or a pattern of domestic violence which may include
19 multiple acts[;

20 (5) "Stalking", when an adult purposely and repeatedly harasses or follows with the
21 intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a
22 course of conduct directed at a specific adult that serves no legitimate purpose, that would cause
23 a reasonable adult to suffer substantial emotional distress. As used in this subdivision, "course
24 of conduct" means a pattern of conduct composed of a series of acts over a period of time,
25 however short, evidencing a continuity of purpose. Constitutionally protected activity is not
26 included within the meaning of "course of conduct"].

27 2. No insurer shall do any of the following on the sole basis of the status of an insured
28 or prospective insured as a victim of domestic violence:

29 (1) Deny, cancel or refuse to issue or renew an insurance policy;

30 (2) Require a greater premium, deductible or any other payment;

31 (3) Exclude or limit coverage for losses or deny a claim;

32 (4) Designate domestic violence as a preexisting condition for which coverage will be
33 denied or reduced;

34 (5) Terminate group coverage solely because of claims relating to the fact that any
35 individual in the group is or has been a victim of domestic violence; or

36 (6) Fix any lower rate or discriminate in the fees or commissions of an agent for writing
37 or renewing a policy insuring an individual solely because an individual is or has been a victim
38 of domestic violence.

39 3. The fact that an insured or prospective insured has been a victim of domestic violence
40 shall not be considered a permitted underwriting or rating criterion.

41 4. Nothing in this section shall prohibit an insurer from taking an action described in
42 subsection 2 of this section if the action is otherwise permissible by law and is taken in the same
43 manner and to the same extent with respect to all insureds and prospective insureds without
44 regard to whether the insured or prospective insured is a victim of domestic violence.

45 5. If an innocent coinsured files a police report and completes a sworn affidavit for the
46 insurer that indicates both the cause of the loss and a pledge to cooperate in any criminal
47 prosecution of the person committing the act causing the loss, then no insurer shall deny payment
48 to an innocent coinsured on a property loss claim due to any policy provision that excludes

49 coverage for intentional acts. Payment to the innocent coinsured may be limited to such innocent
50 coinsured's ownership interest in the property as reduced by any payment to a mortgagor or other
51 secured interest; however, insurers shall not be required to make any subsequent payment to any
52 other insured for the part of any loss for which the innocent coinsured has received payment. An
53 insurer making payment to an insured shall have all rights of subrogation to recover against the
54 perpetrator of the loss.

55 6. A violation of this section shall be subject to the provisions of sections 375.930 to
56 375.948, relating to unfair trade practices.

556.036. 1. A prosecution for murder, [forcible] rape **in the first degree**, attempted
2 [forcible] rape **in the first degree**, [forcible] sodomy **in the first degree**, attempted [forcible]
3 sodomy **in the first degree**, or any class A felony may be commenced at any time.

4 2. Except as otherwise provided in this section, prosecutions for other offenses must be
5 commenced within the following periods of limitation:

6 (1) For any felony, three years, except as provided in subdivision (4) of this subsection;

7 (2) For any misdemeanor, one year;

8 (3) For any infraction, six months;

9 (4) For any violation of section 569.040, when classified as a class B felony, or any
10 violation of section 569.050 or 569.055, five years.

11 3. If the period prescribed in subsection 2 of this section has expired, a prosecution may
12 nevertheless be commenced for:

13 (1) Any offense a material element of which is either fraud or a breach of fiduciary
14 obligation within one year after discovery of the offense by an aggrieved party or by a person
15 who has a legal duty to represent an aggrieved party and who is himself or herself not a party to
16 the offense, but in no case shall this provision extend the period of limitation by more than three
17 years. As used in this subdivision, the term "person who has a legal duty to represent an
18 aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having
19 jurisdiction pursuant to section 407.553, for purposes of offenses committed pursuant to sections
20 407.511 to 407.556; and

21 (2) Any offense based upon misconduct in office by a public officer or employee at any
22 time when the defendant is in public office or employment or within two years thereafter, but in
23 no case shall this provision extend the period of limitation by more than three years; and

24 (3) Any offense based upon an intentional and willful fraudulent claim of child support
25 arrearage to a public servant in the performance of his or her duties within one year after
26 discovery of the offense, but in no case shall this provision extend the period of limitation by
27 more than three years.

28 4. An offense is committed either when every element occurs, or, if a legislative purpose
29 to prohibit a continuing course of conduct plainly appears, at the time when the course of
30 conduct or the defendant's complicity therein is terminated. Time starts to run on the day after
31 the offense is committed.

32 5. A prosecution is commenced for a misdemeanor or infraction when the information
33 is filed and for a felony when the complaint or indictment is filed.

34 6. The period of limitation does not run:

35 (1) During any time when the accused is absent from the state, but in no case shall this
36 provision extend the period of limitation otherwise applicable by more than three years; or

37 (2) During any time when the accused is concealing himself from justice either within
38 or without this state; or

39 (3) During any time when a prosecution against the accused for the offense is pending
40 in this state; or

41 (4) During any time when the accused is found to lack mental fitness to proceed pursuant
42 to section 552.020.

 556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful
2 sexual offenses involving a person eighteen years of age or under must be commenced within
3 thirty years after the victim reaches the age of eighteen unless the prosecutions are for [forcible]
4 rape **in the first degree**, attempted [forcible] rape **in the first degree**, [forcible] sodomy **in the**
5 **first degree**, kidnapping, or attempted [forcible] sodomy **in the first degree** in which case such
6 prosecutions may be commenced at any time.

 556.061. In this code, unless the context requires a different definition, the following
2 shall apply:

3 (1) "Affirmative defense" has the meaning specified in section 556.056;

4 (2) "Burden of injecting the issue" has the meaning specified in section 556.051;

5 (3) "Commercial film and photographic print processor", any person who develops
6 exposed photographic film into negatives, slides or prints, or who makes prints from negatives
7 or slides, for compensation. The term commercial film and photographic print processor shall
8 include all employees of such persons but shall not include a person who develops film or makes
9 prints for a public agency;

10 (4) "Confinement":

11 (a) A person is in confinement when such person is held in a place of confinement
12 pursuant to arrest or order of a court, and remains in confinement until:

13 a. A court orders the person's release; or

14 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

- 15 c. A public servant having the legal power and duty to confine the person authorizes his
16 release without guard and without condition that he return to confinement;
- 17 (b) A person is not in confinement if:
- 18 a. The person is on probation or parole, temporary or otherwise; or
- 19 b. The person is under sentence to serve a term of confinement which is not continuous,
20 or is serving a sentence under a work-release program, and in either such case is not being held
21 in a place of confinement or is not being held under guard by a person having the legal power
22 and duty to transport the person to or from a place of confinement;
- 23 (5) "Consent": consent or lack of consent may be expressed or implied. Assent does not
24 constitute consent if:
- 25 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged
26 to constitute the offense and such mental incapacity is manifest or known to the actor; or
- 27 (b) It is given by a person who by reason of youth, mental disease or defect, [or]
28 intoxication, **a drug-induced state, or any other reason** is manifestly unable or known by the
29 actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct
30 charged to constitute the offense; or
- 31 (c) It is induced by force, duress or deception;
- 32 (6) "Criminal negligence" has the meaning specified in section 562.016;
- 33 (7) "Custody", a person is in custody when the person has been arrested but has not been
34 delivered to a place of confinement;
- 35 (8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first
36 degree, attempted [forcible] rape **in the first degree** if physical injury results, attempted
37 [forcible] sodomy **in the first degree** if physical injury results, [forcible] rape **in the first**
38 **degree**, [forcible] sodomy **in the first degree**, kidnapping, murder in the second degree, assault
39 of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse
40 in the first degree, robbery in the first degree, statutory rape in the first degree when the victim
41 is a child less than twelve years of age at the time of the commission of the act giving rise to the
42 offense, statutory sodomy in the first degree when the victim is a child less than twelve years of
43 age at the time of the commission of the act giving rise to the offense, and, abuse of a child
44 pursuant to subdivision (2) of subsection 3 of section 568.060, child kidnapping, and parental
45 kidnapping committed by detaining or concealing the whereabouts of the child for not less than
46 one hundred twenty days under section 565.153;
- 47 (9) "Dangerous instrument" means any instrument, article or substance, which, under the
48 circumstances in which it is used, is readily capable of causing death or other serious physical
49 injury;

- 50 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from
51 which a shot, readily capable of producing death or serious physical injury, may be discharged,
52 or a switchblade knife, dagger, billy, blackjack or metal knuckles;
- 53 (11) "Felony" has the meaning specified in section 556.016;
- 54 (12) "Forcible compulsion" means either:
55 (a) Physical force that overcomes reasonable resistance; or
56 (b) A threat, express or implied, that places a person in reasonable fear of death, serious
57 physical injury or kidnapping of such person or another person;
- 58 (13) "Incapacitated" means that physical or mental condition, temporary or permanent,
59 in which a person is unconscious, unable to appraise the nature of such person's conduct, or
60 unable to communicate unwillingness to an act[. A person is not incapacitated with respect to
61 an act committed upon such person if he or she became unconscious, unable to appraise the
62 nature of such person's conduct or unable to communicate unwillingness to an act, after
63 consenting to the act];
- 64 (14) "Infraction" has the meaning specified in section 556.021;
- 65 (15) "Inhabitable structure" has the meaning specified in section 569.010;
- 66 (16) "Knowingly" has the meaning specified in section 562.016;
- 67 (17) "Law enforcement officer" means any public servant having both the power and
68 duty to make arrests for violations of the laws of this state, and federal law enforcement officers
69 authorized to carry firearms and to make arrests for violations of the laws of the United States;
- 70 (18) "Misdemeanor" has the meaning specified in section 556.016;
- 71 (19) "Offense" means any felony, misdemeanor or infraction;
- 72 (20) "Physical injury" means physical pain, illness, or any impairment of physical
73 condition;
- 74 (21) "Place of confinement" means any building or facility and the grounds thereof
75 wherein a court is legally authorized to order that a person charged with or convicted of a crime
76 be held;
- 77 (22) "Possess" or "possessed" means having actual or constructive possession of an
78 object with knowledge of its presence. A person has actual possession if such person has the
79 object on his or her person or within easy reach and convenient control. A person has
80 constructive possession if such person has the power and the intention at a given time to exercise
81 dominion or control over the object either directly or through another person or persons.
82 Possession may also be sole or joint. If one person alone has possession of an object, possession
83 is sole. If two or more persons share possession of an object, possession is joint;
- 84 (23) "Public servant" means any person employed in any way by a government of this
85 state who is compensated by the government by reason of such person's employment, any person

86 appointed to a position with any government of this state, or any person elected to a position with
87 any government of this state. It includes, but is not limited to, legislators, jurors, members of the
88 judiciary and law enforcement officers. It does not include witnesses;

89 (24) "Purposely" has the meaning specified in section 562.016;

90 (25) "Recklessly" has the meaning specified in section 562.016;

91 (26) "Ritual" or "ceremony" means an act or series of acts performed by two or more
92 persons as part of an established or prescribed pattern of activity;

93 (27) "Serious emotional injury", an injury that creates a substantial risk of temporary or
94 permanent medical or psychological damage, manifested by impairment of a behavioral,
95 cognitive or physical condition. Serious emotional injury shall be established by testimony of
96 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
97 medical or psychological certainty;

98 (28) "Serious physical injury" means physical injury that creates a substantial risk of
99 death or that causes serious disfigurement or protracted loss or impairment of the function of any
100 part of the body;

101 (29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse;
102 sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area,
103 buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

104 (30) "Sexual contact" means any touching of the genitals or anus of any person, or the
105 breast of any female person, or any such touching through the clothing, for the purpose of
106 arousing or gratifying sexual desire of any person;

107 (31) "Sexual performance", any performance, or part thereof, which includes sexual
108 conduct by a child who is less than seventeen years of age;

109 (32) "Voluntary act" has the meaning specified in section 562.011.

558.018. 1. The court shall sentence a person [who has pleaded guilty to or] **to an**
2 **extended term of imprisonment if it finds the defendant is a persistent sexual offender and**
3 has been found guilty of [the felony of forcible rape, statutory rape in the first degree, forcible
4 sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes
5 designated in this subsection to an extended term of imprisonment if it finds the defendant is a
6 persistent sexual offender] **attempting to commit or committing the following offenses:**

7 (1) **Statutory rape in the first degree or statutory sodomy in the first degree;**

8 (2) **Rape in the first degree or sodomy in the first degree attempted or committed**
9 **on or after August 28, 2013;**

10 (3) **Forcible rape committed or attempted any time during the period of August 13,**
11 **1980 to August 27, 2013;**

12 **(4) Forcible sodomy committed or attempted any time during the period of January**
13 **1, 1995 to August 27, 2013;**

14 **(5) Rape committed or attempted before August 13, 1980;**

15 **(6) Sodomy committed or attempted before January 1, 1995.**

16 2. A "persistent sexual offender" is one who has previously [pleaded guilty to or has been
17 found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible
18 sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes
19 designated in this subsection] **been found guilty of attempting to commit or committing any**
20 **of the offenses listed in subsection 1 of this section.**

21 3. The term of imprisonment for one found to be a persistent sexual offender shall be
22 imprisonment for life without eligibility for probation or parole. Subsection 4 of section 558.019
23 shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall
24 mean imprisonment for the duration of the person's natural life.

25 4. The court shall sentence a person [who has pleaded guilty to or has] **to an extended**
26 **term of imprisonment as provided for in this section if it finds the defendant is a predatory**
27 **sexual offender and has** been found guilty of [the felony of forcible rape, statutory rape in the
28 first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any
29 of the preceding crimes or] **committing or attempting to commit any of the offenses listed in**
30 **subsection 1 of this section or committing** child molestation in the first degree when classified
31 as a class B felony or sexual abuse when classified as a class B felony to an extended term of
32 imprisonment as provided for in this section if it finds the defendant is a predatory sexual
33 offender.

34 5. For purposes of this section, a "predatory sexual offender" is a person who:

35 (1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible
36 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
37 first degree, or an attempt to commit any of the preceding crimes or] **committing or attempting**
38 **to commit any of the offenses listed in subsection 1 of this section, or committing** child
39 molestation in the first degree when classified as a class B felony or sexual abuse when classified
40 as a class B felony; or

41 (2) Has previously committed an act which would constitute an offense listed in
42 subsection 4 of this section, whether or not the act resulted in a conviction; or

43 (3) Has committed an act or acts against more than one victim which would constitute
44 an offense or offenses listed in subsection 4 of this section, whether or not the defendant was
45 charged with an additional offense or offenses as a result of such act or acts.

46 6. A person found to be a predatory sexual offender shall be imprisoned for life with
47 eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found

48 to be predatory sexual offenders for the purposes of determining the minimum prison term or the
49 length of sentence as defined or used in such subsection. Notwithstanding any other provision
50 of law, in no event shall a person found to be a predatory sexual offender receive a final
51 discharge from parole.

52 7. Notwithstanding any other provision of law, the court shall set the minimum time
53 required to be served before a predatory sexual offender is eligible for parole, conditional release
54 or other early release by the department of corrections. The minimum time to be served by a
55 person found to be a predatory sexual offender who:

56 (1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible
57 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
58 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found
59 guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory
60 sodomy in the first degree or an attempt to commit any of the preceding crimes] **committing or**
61 **attempting to commit any of the offenses listed in subsection 1 of this section and is found**
62 **guilty of committing or attempting to commit any of the offenses listed in subsection 1 of**
63 **this section** shall be any number of years but not less than thirty years;

64 (2) Has previously pleaded guilty to or has been found guilty of child molestation in the
65 first degree when classified as a class B felony or sexual abuse when classified as a class B
66 felony and [pleads guilty to or] is found guilty of attempting to commit or committing [forcible
67 rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree]
68 **any of the offenses listed in subsection 1 of this section** shall be any number of years but not
69 less than fifteen years;

70 (3) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible
71 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
72 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found
73 guilty of] **committing or attempting to commit any of the offenses listed in subsection 1 of**
74 **this section, or committing** child molestation in the first degree when classified as a class B
75 felony or sexual abuse when classified as a class B felony shall be any number of years but not
76 less than fifteen years;

77 (4) Has previously pleaded guilty to or has been found guilty of child molestation in the
78 first degree when classified as a class B felony or sexual abuse when classified as a class B
79 felony, and pleads guilty to or is found guilty of child molestation in the first degree when
80 classified as a class B felony or sexual abuse when classified as a class B felony shall be any
81 number of years but not less than fifteen years;

82 (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of
83 subsection 5 of this section shall be any number of years within the range to which the person

84 could have been sentenced pursuant to the applicable law if the person was not found to be a
85 predatory sexual offender.

86 8. Notwithstanding any provision of law to the contrary, the department of corrections,
87 or any division thereof, may not furlough an individual found to be and sentenced as a persistent
88 sexual offender or a predatory sexual offender.

558.026. 1. Multiple sentences of imprisonment shall run concurrently unless the court
2 specifies that they shall run consecutively; except [that,] in the case of multiple sentences of
3 imprisonment imposed for [the felony of rape, forcible rape, sodomy, forcible sodomy or] **any**
4 **offense committed during or at the same time as, or multiple offenses of, the following**
5 **felonies:**

6 (1) **Rape in the first degree;**

7 (2) **Statutory rape in the first degree;**

8 (3) **Sodomy in the first degree;**

9 (4) **Statutory sodomy in the first degree; or**

10 (5) **An attempt to commit any of the [aforesaid and for other offenses committed during**
11 **or at the same time as that rape, forcible rape, sodomy, forcible sodomy or an attempt to commit**
12 **any of the aforesaid, the sentences of imprisonment imposed for the other offenses may run**
13 **concurrently, but] felonies listed in this subsection.**

14

15 **In such case,** the sentence of imprisonment imposed for [the felony of rape, forcible rape,
16 sodomy, forcible sodomy] **any offense of rape in the first degree, statutory rape in the first**
17 **degree, sodomy in the first degree, statutory sodomy in the first degree,** or an attempt to
18 commit any of the aforesaid shall run consecutively to the other sentences. **The sentences**
19 **imposed for any other offense may run concurrently.**

20 2. If a person who is on probation, parole or conditional release is sentenced to a term
21 of imprisonment for an offense committed after the granting of probation or parole or after the
22 start of his conditional release term, the court shall direct the manner in which the sentence or
23 sentences imposed by the court shall run with respect to any resulting probation, parole or
24 conditional release revocation term or terms. If the subsequent sentence to imprisonment is in
25 another jurisdiction, the court shall specify how any resulting probation, parole or conditional
26 release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

27 3. A court may cause any sentence it imposes to run concurrently with a sentence an
28 individual is serving or is to serve in another state or in a federal correctional center. If the
29 Missouri sentence is served in another state or in a federal correctional center, subsection 4 of
30 section 558.011 and section 217.690 shall apply as if the individual were serving his sentence

31 within the department of corrections of the state of Missouri, except that a personal hearing
32 before the board of probation and parole shall not be required for parole consideration.

559.115. 1. Neither probation nor parole shall be granted by the circuit court between
2 the time the transcript on appeal from the offender's conviction has been filed in appellate court
3 and the disposition of the appeal by such court.

4 2. Unless otherwise prohibited by subsection 5 of this section, a circuit court only upon
5 its own motion and not that of the state or the offender shall have the power to grant probation
6 to an offender anytime up to one hundred twenty days after such offender has been delivered to
7 the department of corrections but not thereafter. The court may request information and a
8 recommendation from the department concerning the offender and such offender's behavior
9 during the period of incarceration. Except as provided in this section, the court may place the
10 offender on probation in a program created pursuant to section 217.777, or may place the
11 offender on probation with any other conditions authorized by law.

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this section or order such placement under subsection
14 4 of section 559.036. Upon the recommendation or order of the court, the department of
15 corrections shall assess each offender to determine the appropriate program in which to place the
16 offender, including shock incarceration or institutional treatment. When the court recommends
17 and receives placement of an offender in a department of corrections one hundred twenty-day
18 program, the offender shall be released on probation if the department of corrections determines
19 that the offender has successfully completed the program except as follows. Upon successful
20 completion of a treatment program, the board of probation and parole shall advise the sentencing
21 court of an offender's probationary release date thirty days prior to release. The court shall
22 release the offender unless such release constitutes an abuse of discretion. If the court
23 determined that there is an abuse of discretion, the court may order the execution of the
24 offender's sentence only after conducting a hearing on the matter within ninety to one hundred
25 twenty days of the offender's sentence. If the court does not respond when an offender
26 successfully completes the program, the offender shall be released on probation. Upon
27 successful completion of a shock incarceration program, the board of probation and parole shall
28 advise the sentencing court of an offender's probationary release date thirty days prior to release.
29 The court shall follow the recommendation of the department unless the court determines that
30 probation is not appropriate. If the court determines that probation is not appropriate, the court
31 may order the execution of the offender's sentence only after conducting a hearing on the matter
32 within ninety to one hundred twenty days of the offender's sentence. If the department
33 determines that an offender is not successful in a program, then after one hundred days of
34 incarceration the circuit court shall receive from the department of corrections a report on the

35 offender's participation in the program and department recommendations for terms and
36 conditions of an offender's probation. The court shall then release the offender on probation or
37 order the offender to remain in the department to serve the sentence imposed.

38 4. If the department of corrections one hundred twenty-day program is full, the court may
39 place the offender in a private program approved by the department of corrections or the court,
40 the expenses of such program to be paid by the offender, or in an available program offered by
41 another organization. If the offender is convicted of a class C or class D nonviolent felony, the
42 court may order probation while awaiting appointment to treatment.

43 5. Except when the offender has been found to be a predatory sexual offender pursuant
44 to section 558.018, the court shall request that the offender be placed in the sexual offender
45 assessment unit of the department of corrections if the defendant has pleaded guilty to or has
46 been found guilty of sexual abuse when classified as a class B felony.

47 6. Unless the offender is being granted probation pursuant to successful completion of
48 a one hundred twenty-day program the circuit court shall notify the state in writing when the
49 court intends to grant probation to the offender pursuant to the provisions of this section. The
50 state may, in writing, request a hearing within ten days of receipt of the court's notification that
51 the court intends to grant probation. Upon the state's request for a hearing, the court shall grant
52 a hearing as soon as reasonably possible. If the state does not respond to the court's notice in
53 writing within ten days, the court may proceed upon its own motion to grant probation.

54 7. An offender's first incarceration for one hundred twenty days for participation in a
55 department of corrections program prior to release on probation shall not be considered a
56 previous prison commitment for the purpose of determining a minimum prison term under the
57 provisions of section 558.019.

58 8. Notwithstanding any other provision of law, probation may not be granted pursuant
59 to this section to offenders who have been convicted of murder in the second degree pursuant
60 to section 565.021; [forcible] rape **in the first degree** pursuant to section 566.030; [forcible]
61 sodomy **in the first degree** pursuant to section 566.060; statutory rape in the first degree
62 pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062;
63 child molestation in the first degree pursuant to section 566.067 when classified as a class A
64 felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; an
65 offender who has been found to be a predatory sexual offender pursuant to section 558.018; or
66 any offense in which there exists a statutory prohibition against either probation or parole.

559.117. 1. The director of the department of corrections is authorized to establish, as
2 a three-year pilot program, a mental health assessment process.

3 2. Only upon a motion filed by the prosecutor in a criminal case, the judge who is
4 hearing the criminal case in a participating county may request that an offender be placed in the

5 department of corrections for one hundred twenty days for a mental health assessment and for
6 treatment if it appears that the offender has a mental disorder or mental illness such that the
7 offender may qualify for probation including community psychiatric rehabilitation (CPR)
8 programs and such probation is appropriate and not inconsistent with public safety. Before the
9 judge rules upon the motion, the victim shall be given notice of such motion and the opportunity
10 to be heard. Upon recommendation of the court, the department shall determine the offender's
11 eligibility for the mental health assessment process.

12 3. Following this assessment and treatment period, an assessment report shall be sent to
13 the sentencing court and the sentencing court may, if appropriate, release the offender on
14 probation. The offender shall be supervised on probation by a state probation and parole officer,
15 who shall work cooperatively with the department of mental health to enroll eligible offenders
16 in community psychiatric rehabilitation (CPR) programs.

17 4. Notwithstanding any other provision of law, probation shall not be granted under this
18 section to offenders who:

19 (1) Have been found guilty of, or plead guilty to, murder in the second degree under
20 section 565.021;

21 (2) Have been found guilty of, or plead guilty to, [forcible] rape **in the first degree** under
22 section 566.030;

23 (3) Have been found guilty of, or plead guilty to, statutory rape in the first degree under
24 section 566.032;

25 (4) Have been found guilty of, or plead guilty to, [forcible] sodomy **in the first degree**
26 under section 566.060;

27 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the first degree
28 under section 566.062;

29 (6) Have been found guilty of, or plead guilty to, child molestation in the first degree
30 under section 566.067 when classified as a class A felony;

31 (7) Have been found to be a predatory sexual offender under section 558.018; or

32 (8) Have been found guilty of, or plead guilty to, any offense for which there exists a
33 statutory prohibition against either probation or parole.

34 5. At the end of the three-year pilot, the director of the department of corrections and the
35 director of the department of mental health shall jointly submit recommendations to the governor
36 and to the general assembly by December 31, 2015, on whether to expand the process statewide.

566.020. 1. [Whenever in this chapter the criminality of conduct depends upon a
2 victim's being incapacitated, no crime is committed if the actor reasonably believed that the
3 victim was not incapacitated and reasonably believed that the victim consented to the act. The
4 defendant shall have the burden of injecting the issue of belief as to capacity and consent.

5 2.] Whenever in this chapter the criminality of conduct depends upon a child being
6 thirteen years of age or younger, it is no defense that the defendant believed the child to be older.

7 [3.] 2. Whenever in this chapter the criminality of conduct depends upon a child being
8 under seventeen years of age, it is an affirmative defense that the defendant reasonably believed
9 that the child was seventeen years of age or older.

10 [4.] 3. Consent is not an affirmative defense to any offense under chapter 566 if the
11 alleged victim is less than twelve years of age.

566.030. 1. A person commits the [crime] **offense of [forcible] rape in the first degree**
2 if [such person] **he or she** has sexual intercourse with another person **who is incapacitated,**
3 **incapable of consent, or lacks the capacity to consent, or** by the use of forcible compulsion.
4 Forcible compulsion includes the use of a substance administered without a victim's knowledge
5 or consent which renders the victim physically or mentally impaired so as to be incapable of
6 making an informed consent to sexual intercourse.

7 2. [Forcible] **The offense of rape in the first degree** or an attempt to commit [forcible]
8 rape **in the first degree** is a felony for which the authorized term of imprisonment is life
9 imprisonment or a term of years not less than five years, unless:

10 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly
11 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual
12 intercourse or deviate sexual intercourse with more than one person, in which case the authorized
13 term of imprisonment is life imprisonment or a term of years not less than fifteen years;

14 (2) The victim is a child less than twelve years of age, in which case the required term
15 of imprisonment is life imprisonment without eligibility for probation or parole until the
16 [defendant] **offender** has served not less than thirty years of such sentence or unless the
17 [defendant] **offender** has reached the age of seventy-five years and has served at least fifteen
18 years of such sentence, unless such [forcible] rape **in the first degree** is described under
19 subdivision (3) of this subsection; or

20 (3) The victim is a child less than twelve years of age and such [forcible] rape **in the**
21 **first degree or attempt to commit rape in the first degree** was outrageously or wantonly vile,
22 horrible or inhumane, in that it involved torture or depravity of mind, in which case the required
23 term of imprisonment is life imprisonment without eligibility for probation, parole or conditional
24 release.

25 3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has
26 [pleaded guilty to or has] been found guilty of [forcible] rape **in the first degree or attempt to**
27 **commit rape in the first degree** when the victim is [under the age of] **less than twelve years**
28 **of age**, and "life imprisonment" shall mean imprisonment for the duration of a person's natural
29 life for the purposes of this section.

30 4. No person found guilty of [or pleading guilty to forcible] rape **in the first degree** or
31 an attempt to commit [forcible] rape **in the first degree** shall be granted a suspended imposition
32 of sentence or suspended execution of sentence.

[566.040.] **566.031.** 1. A person commits the [crime] **offense** of [sexual assault] **rape**
2 **in the second degree** if he **or she** has sexual intercourse with another person knowing that he
3 **or she** does so without that person's consent.

4 2. [Sexual assault] **The offense of rape in the second degree** is a class C felony.

566.060. 1. A person commits the [crime] **offense** of [forcible] sodomy **in the first**
2 **degree** if [such person] **he or she** has deviate sexual intercourse with another person **who is**
3 **incapacitated, incapable of consent, or lacks the capacity to consent, or** by the use of forcible
4 compulsion. Forcible compulsion includes the use of a substance administered without a
5 victim's knowledge or consent which renders the victim physically or mentally impaired so as
6 to be incapable of making an informed consent to sexual intercourse.

7 2. [Forcible] **The offense of sodomy in the first degree** or an attempt to commit
8 [forcible] sodomy **in the first degree** is a felony for which the authorized term of imprisonment
9 is life imprisonment or a term of years not less than five years, unless:

10 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly
11 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual
12 intercourse or deviate sexual intercourse with more than one person, in which case the authorized
13 term of imprisonment is life imprisonment or a term of years not less than ten years; or

14 (2) The victim is a child less than twelve years [of age] **old**, in which case the required
15 term of imprisonment is life imprisonment without eligibility for probation or parole until the
16 [defendant] **offender** has served not less than thirty years of such sentence or unless the
17 [defendant] **offender** has reached the age of seventy-five years and has served at least fifteen
18 years of such sentence, unless such [forcible] sodomy **in the first degree** is described under
19 subdivision (3) of this subsection; or

20 (3) The victim is a child less than twelve years of age and such [forcible] sodomy **in the**
21 **first degree or attempt to commit sodomy in the first degree** was outrageously or wantonly
22 vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the
23 required term of imprisonment is life imprisonment without eligibility for probation, parole or
24 conditional release.

25 3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has
26 [pleaded guilty to or has] been found guilty of [forcible] sodomy **in the first degree or an**
27 **attempt to commit sodomy in the first degree** when the victim is [under the age of] **less than**
28 **twelve years of age**, and "life imprisonment" shall mean imprisonment for the duration of a
29 person's natural life for the purposes of this section.

30 4. No person found guilty of [or pleading guilty to forcible] sodomy **in the first degree**
31 or an attempt to commit [forcible] sodomy **in the first degree** shall be granted a suspended
32 imposition of sentence or suspended execution of sentence.

[566.070.] **566.061.** 1. A person commits the [crime of deviate sexual assault] **offense**
2 **of sodomy in the second degree** if he **or she** has deviate sexual intercourse with another person
3 knowing that he **or she** does so without that person's consent.

4 2. [Deviate sexual assault] **The offense of sodomy in the second degree** is a class C
5 felony.

566.093. 1. A person commits the [crime] **offense** of sexual misconduct in the [second]
2 **first degree** if such person:

3 (1) Exposes his or her genitals under circumstances in which he or she knows that his
4 or her conduct is likely to cause affront or alarm;

5 (2) Has sexual contact in the presence of a third person or persons under circumstances
6 in which he or she knows that such conduct is likely to cause affront or alarm; or

7 (3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence
8 of a third person.

9 2. **The offense of** sexual misconduct in the [second] **first degree** is a class B
10 misdemeanor unless the [actor] **person** has previously been [convicted] **found guilty** of an
11 offense under this chapter, in which case it is a class A misdemeanor.

566.095. 1. A person commits the [crime] **offense** of sexual misconduct in the [third]
2 **second degree** if he **or she** solicits or requests another person to engage in sexual conduct under
3 circumstances in which he **or she** knows that [his requests] **such request** or solicitation is likely
4 to cause affront or alarm.

5 2. **The offense of** sexual misconduct in the [third] **second degree** is a class C
6 misdemeanor.

566.100. 1. A person commits the [crime] **offense** of sexual abuse **in the first degree**
2 if he **or she** subjects another person to sexual contact **when that person is incapacitated,**
3 **incapable of consent, or lacks the capacity to consent, or** by the use of forcible compulsion.

4 2. **The offense of** sexual abuse **in the first degree** is a class C felony unless in the course
5 thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous
6 instrument in a threatening manner or subjects the victim to sexual contact with more than one
7 person or the victim is less than fourteen years of age, in which case [the crime] **it** is a class B
8 felony.

[566.090.] **566.101.** 1. A person commits the [crime] **offense** of sexual [misconduct]
2 **abuse** in the [first] **second degree** if [such person] **he or she** purposely subjects another person
3 to sexual contact without that person's consent.

4 2. **The offense of** sexual [misconduct] **abuse** in the [first] **second** degree is a class A
5 misdemeanor, unless the actor has previously been convicted of an offense under this chapter or
6 unless in the course thereof the actor displays a deadly weapon in a threatening manner or the
7 offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

566.224. No prosecuting or circuit attorney, peace officer, governmental official, or
2 employee of a law enforcement agency shall request or require a victim of [sexual assault] **rape**
3 **in the second degree** under section [566.040 or forcible] **566.031 or rape in the first degree**
4 under section 566.030 to submit to any polygraph test or psychological stress evaluator exam as
5 a condition for proceeding with a criminal investigation of such crime.

566.226. 1. After August 28, 2007, any information contained in any court record,
2 whether written or published on the internet, that could be used to identify or locate any victim
3 of [sexual assault,] domestic assault, stalking, or [forcible] **rape in the first or second degree**
4 shall be closed and redacted from such record prior to disclosure to the public. Identifying
5 information shall include the name, home or temporary address, telephone number, Social
6 Security number or physical characteristics.

7 2. If the court determines that a person or entity who is requesting identifying
8 information of a victim has a legitimate interest in obtaining such information, the court may
9 allow access to the information, but only if the court determines that disclosure to the person or
10 entity would not compromise the welfare or safety of such victim.

11 3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding
12 over a [sexual assault,] domestic assault, stalking, or [forcible] **rape in the first or second**
13 **degree** case shall have the discretion to publicly disclose identifying information regarding the
14 defendant which could be used to identify or locate the victim of the crime. The victim may
15 provide a statement to the court regarding whether he or she desires such information to remain
16 closed. When making the decision to disclose such information, the judge shall consider the
17 welfare and safety of the victim and any statement to the court received from the victim
18 regarding the disclosure.

589.015. As used in sections 589.010 to 589.040:

2 (1) The term "center" shall mean the state center for the prevention and control of sexual
3 assault established pursuant to section 589.030;

4 (2) The term "sexual assault" shall include:

5 (a) The acts of **rape in the first or second degree**, [forcible rape,] statutory rape in the
6 first degree, statutory rape in the second degree, [sexual assault,] sodomy **in the first or second**
7 **degree**, [forcible sodomy,] statutory sodomy in the first degree, statutory sodomy in the second
8 degree, child molestation in the first degree, child molestation in the second degree, [deviate
9 sexual assault,] sexual misconduct and sexual abuse, or attempts to commit any of the aforesaid,
10 as these acts are defined in chapter 566;

- 11 (b) The act of incest, as this act is defined in section 568.020;
12 (c) The act of abuse of a child, as defined in subdivision (1) of subsection 1 of section
13 568.060, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of
14 section 568.060;
15 (d) The act of use of a child in a sexual performance as defined in section 568.080; and
16 (e) The act of enticement of a child, as defined in section 566.151, or any attempt to
17 commit such act.

590.700. 1. As used in this section, the following terms shall mean:

- 2 (1) "Custodial interrogation", the questioning of a person under arrest, who is no longer
3 at the scene of the crime, by a member of a law enforcement agency along with the answers and
4 other statements of the person questioned. "Custodial interrogation" shall not include:
5 (a) A situation in which a person voluntarily agrees to meet with a member of a law
6 enforcement agency;
7 (b) A detention by a law enforcement agency that has not risen to the level of an arrest;
8 (c) Questioning that is routinely asked during the processing of the arrest of the suspect;
9 (d) Questioning pursuant to an alcohol influence report;
10 (e) Questioning during the transportation of a suspect;
11 (2) "Recorded" and "recording", any form of audiotape, videotape, motion picture, or
12 digital recording.
- 13 2. All custodial interrogations of persons suspected of committing or attempting to
14 commit murder in the first degree, murder in the second degree, assault in the first degree, assault
15 of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse
16 in the first degree, robbery in the first degree, arson in the first degree, [forcible] rape **in the first**
17 **degree**, [forcible] sodomy **in the first degree**, kidnapping, statutory rape in the first degree,
18 statutory sodomy in the first degree, child abuse, or child kidnapping shall be recorded when
19 feasible.
- 20 3. Law enforcement agencies may record an interrogation in any circumstance with or
21 without the knowledge or consent of a suspect, but they shall not be required to record an
22 interrogation under subsection 2 of this section:
- 23 (1) If the suspect requests that the interrogation not be recorded;
24 (2) If the interrogation occurs outside the state of Missouri;
25 (3) If exigent public safety circumstances prevent recording;
26 (4) To the extent the suspect makes spontaneous statements;
27 (5) If the recording equipment fails; or
28 (6) If recording equipment is not available at the location where the interrogation takes
29 place.

30 4. Each law enforcement agency shall adopt a written policy to record custodial
31 interrogations of persons suspected of committing or attempting to commit the felony crimes
32 described in subsection 2 of this section.

33 5. If a law enforcement agency fails to comply with the provisions of this section, the
34 governor may withhold any state funds appropriated to the noncompliant law enforcement
35 agency if the governor finds that the agency did not act in good faith in attempting to comply
36 with the provisions of this section.

37 6. Nothing in this section shall be construed as a ground to exclude evidence, and a
38 violation of this section shall not have impact other than that provided for in subsection 5 of this
39 section. Compliance or noncompliance with this section shall not be admitted as evidence,
40 argued, referenced, considered or questioned during a criminal trial.

41 7. Nothing contained in this section shall be construed to authorize, create, or imply a
42 private cause of action.

632.480. As used in sections 632.480 to 632.513, the following terms mean:

2 (1) "Agency with jurisdiction", the department of corrections or the department of mental
3 health;

4 (2) "Mental abnormality", a congenital or acquired condition affecting the emotional or
5 volitional capacity which predisposes the person to commit sexually violent offenses in a degree
6 constituting such person a menace to the health and safety of others;

7 (3) "Predatory", acts directed towards individuals, including family members, for the
8 primary purpose of victimization;

9 (4) "Sexually violent offense", the felonies of **rape in the first degree**, forcible rape,
10 rape, statutory rape in the first degree, **sodomy in the first degree**, forcible sodomy, sodomy,
11 statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes, or
12 child molestation in the first or second degree, sexual abuse **in the first degree**, sexual assault,
13 deviate sexual assault, **rape in the second degree**, **sodomy in the second degree**, or the act of
14 abuse of a child as defined in subdivision (1) of subsection 1 of section 568.060 which involves
15 sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060;

16 (5) "Sexually violent predator", any person who suffers from a mental abnormality which
17 makes the person more likely than not to engage in predatory acts of sexual violence if not
18 confined in a secure facility and who:

19 (a) Has pled guilty or been found guilty, or been found not guilty by reason of mental
20 disease or defect pursuant to section 552.030 of a sexually violent offense; or

21 (b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and
22 statutes in effect before August 13, 1980.

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